

BEFORE THE ARIZONA OFFICE OF PEST MANAGEMENT

In the Matter of:

GREENLEAF PEST CONTROL (formerly)
Worx Pest Control), Holder of Business)
License No. 8238, AARON WORKMAN,
Holder of Qualifying Party License No. 8258,
LARRY OLIVER Holder of Applicator License)
No. 060937 (Expired May 31, 2009), for
Performing the Business of Structural Pest
Control in the State of Arizona,
Respondents.

Case No.: 100060

CONSENT AGREEMENT
AND
ORDER

The Acting Director of the Arizona Office of Pest Management ("OPM") considered the above matter and offers Respondents this Consent Agreement.

This complaint, stemming from a consumer, contains allegations that on May 28, 2008, an Unlicensed Applicator with Greenleaf Pest Control, which at that time of the violation was formerly named Worx Pest Control, performed a pesticide application in a manner where the pesticide came into contact with a dog dish, which is a violation of A.R.S. 32-2321(B)(4) and A.A.C. R4-29-304(B)(3).

CONSENT AGREEMENT
RECITALS

In the interest of a prompt and judicious resolution of this matter, consistent with the public interest, statutory requirements and responsibilities of the Office Of Pest Management (OPM), and under A.R.S. §§ 32-2301, et seq., and 41-1092.07(F)(5), Greenleaf Pest Control, ("Greenleaf" or "Respondent"), holder of Business License No. 8238, Aaron Workman ("Workman" or "Respondent"), holder of Qualifying Party License No. 8258, Larry Oliver ("Oliver" or "Respondent"), holder of Applicator License No. 060937 (Expired May 31, 2009), for performing pest management services in the State of Arizona, and the

OPM enter into the following Recitals, Findings of Fact, Conclusions of Law and Order (“Consent Agreement”) as the final disposition of this matter.

1. Respondents have read and understand this Consent Agreement as set forth herein, and have been provided the opportunity to discuss this Consent Agreement with an attorney. Respondents voluntarily enter into this Consent Agreement for the purpose of avoiding the expense and uncertainty of an administrative hearing.

2. Respondents understand that they have a right to a public administrative hearing concerning the above-captioned matter, at which administrative hearing they could present evidence and cross-examine witnesses. By entering into this Consent Agreement, Respondents knowingly and voluntarily relinquish all rights to such an administrative hearing, as well as all rights of rehearing, review, reconsideration, appeal, judicial review or any other administrative or judicial action, concerning the matters set forth herein. Respondents affirmatively agree that this Consent Agreement shall be irrevocable.

3. Respondents understand that this Consent Agreement or any part of the Agreement may be considered in any future disciplinary action by the OPM against them.

4. Respondents understand this Consent Agreement concerns OPM Complaint No. 100060, which contains grounds to discipline Respondent’s licenses.

5. All admissions made by Respondents in this Consent Agreement are made solely for the final disposition of this matter, and any related administrative procedures involving the OPM and Respondents. Therefore, any admissions made by Respondents in this Consent Agreement are not intended for any other use.

6. Respondents acknowledge and agree that upon signing this Consent Agreement and returning this document to the OPM, Respondents may not revoke their acceptance of this Consent Agreement or make any modifications to the document. Any modification to this original document is ineffective and void unless mutually approved by the parties in writing.

7. Respondents understand that the foregoing Consent Agreement shall not become effective unless and until adopted by the OPM and signed by its Acting Director or designee. This Consent is effective the date signed by the Acting Director or designee.

8. Respondents understand and agree that if the OPM does not adopt this Consent Agreement, they will not assert as a defense that the Acting Director's consideration of this Consent Agreement constitutes bias, prejudice, prejudgment or other similar defenses.

9. Respondents understand that this Consent Agreement is a public record that may be publicly disseminated as a formal action of the OPM.

10. Respondents understand that any violation of this Consent Agreement constitutes grounds for disciplinary action under A.R.S. § 32-2321(B) and may result in disciplinary action under A.R.S. § 32-2321(A).

11. If accepting and agreeing to this Consent Agreement on behalf of a company or entity, the person signing affirms that they have the authority to enter into the Consent Agreement and bind the company to the terms and conditions of this Consent Agreement.


Greenleaf Pest Control
Licensed Business


10-14-09
Date Signed


Aaron Workman
Licensed Qualifying Party

10-14-09
Date Signed

Larry Oliver
Licensed Applicator

Date Signed

 NO LONGER WORKS
FOR COMPANY

1 FINDINGS OF FACT

2 12. On May 28, 2009, the OPM received a phone call from a consumer alleging that an
3 applicator working for Worx Pest Control, renamed to Greenleaf Pest Control, performed a
4 pest management treatment in a manner that caused consumer's dogs to become ill and as a
5 result, the consumer took them to a veterinarian.

6 13. An OPM Investigator, Brian Kennedy, visited the consumer and obtained Swab
7 Samples from the dog's dish in the consumer's yard. The applicator that performed the
8 application was working within the 90 day grace period and therefore did not have a license.
9 However, the applicator was working under the supervision of a Licensed Applicator,
10 Respondent Oliver.

11 14. On December 12, 2009, the Arizona Department of Agriculture Lab (ADOA)
12 reported that the Swab Samples were positive for the presence of pesticide. A dog dish is not
13 a "site" on the Pesticide Label. The respondents stated that the unlicensed applicator was
14 trained on how to apply pesticides, but the Investigation revealed there was no documentation
15 to support that any training had been completed. Additionally, Investigator Kennedy was not
16 able to substantiate the consumer's claim that the pesticide caused the dog's illness.

17 15. On February 13, 2009, filed Complaint No. 100060. The Licensed Supervisor,
18 Respondent Oliver failed to respond to the Complaint, within the required (20) days, or the
19 Notice for Settlement Conference. Additionally the Respondent's Applicator License expired
20 on May 31, 2009.

21 CONCLUSIONS OF LAW

22 16. The conduct and circumstances described in the Findings of Fact constitute
23 grounds for disciplinary action against the Greenleaf Pest Control, holder of Business
24 License No. 8238 pursuant to A.R.S. § 32-2321 (A) (Disciplinary action) for a violation of
25

1 A.R.S. § 32-2321(B)(1)(Violating laws and rules), via: A.R.S. § 32-2321(B)(4) (Applying
2 pesticides inconsistent with Label Directions) and A.R.S. § 32-2308 (Joint Responsibility).

3 17. The conduct and circumstances described in the Findings of Fact constitute
4 grounds for disciplinary action against Aaron Workman, holder of Qualifying Party License
5 No. 8258 pursuant to A.R.S. § 32-2321 (A) (Disciplinary action) for a violation of A.R.S. § 32-
6 2321(B)(1)(Violating laws and rules), via: A.R.S. § 32-2321(B)(1) (Applying pesticides
7 inconsistent with Label Directions) and A.R.S. § 32-2308 (Joint Responsibility).

8 18. The conduct and circumstances described in the Findings of Fact constitute
9 grounds for disciplinary action against Larry Oliver, holder of Applicator License No. 060937
10 (Expired May 31, 2009) pursuant to A.R.S. § 32-2321 (A) (Disciplinary action) for a violation of
11 A.R.S. § 32-2321(B)(1)(Violating laws and rules), via: A.R.S. § 32-2321(B)(4) (Applying
12 pesticides inconsistent with Label Directions) and A.A.C. R4-29-702(F) (Failure to respond to
13 within the required (20) days) and A.R.S. § 32-2308 (Joint Responsibility).

14 ORDER

15 Based upon the above Findings of Fact and Conclusions of Law:

16 IT IS ORDERED that Greenleaf Pest Control, holder of Business License No. 8238, be
17 issued an Administrative Warning. (Effective as of the date of this Order)

18 IT IS FURTHER ORDERED that Aaron Workman, holder of Qualifying Party License No.
19 8258, be issued an Administrative Warning and pay a \$400.00 Civil Penalty (Due within
20 (30) days from the date of this Order.)

21 IT IS FURTHER ORDERED that the Complaint No. 100060 be Dismissed Without
22 Prejudice against Larry Oliver, holder of Applicator License No. 051135 (Expired). (If the
23 Respondent seeks licensing with the OPM in the future the Complaint No. 100060 will be
24 reopened and addressed at that time.
25

Entered this 19TH day of OCTOBER 2009.

[SEAL]



ARIZONA OFFICE OF PEST MANAGEMENT

A handwritten signature in black ink, appearing to read "Ellis M. Jones".

Ellis M. Jones, Acting Director

Original "Consent Agreement and Order"
filed this 19TH day of OCTOBER
2009, with the:

OPM
9535 E. Doubletree Ranch Road
Scottsdale, AZ 85258

Copies of the foregoing mailed
via certified and regular U.S. Mail
this 19TH day of OCTOBER,
2009, to:

GREENLEAF PEST CONTROL

A solid black rectangular redaction box covering the address information for Greenleaf Pest Control.

CERTIFIED MAIL: 7008 1300 0001 2302 1123

AARON WORKMAN

A solid black rectangular redaction box covering the address information for Aaron Workman.

CERTIFIED MAIL: 7008 1300 0001 2302 1123

LARRY OLIVER

A solid black rectangular redaction box covering the address information for Larry Oliver.

CERTIFIED MAIL: 7008 1300 0001 2302 1116

By A handwritten signature in black ink, appearing to read "Dirk S. VandenBerg, Sr.".
Dirk S. VandenBerg, Sr.
Regulatory Compliance Specialist